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STATE OF MONTANA

MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

REVENUE AND FINANCE

No. VII

Date Reported: March 11, 1972

John M. Schultz, Chairman

William L. Ruckelshaus, Vice Chairman



TO: Montana Constitutional Convention

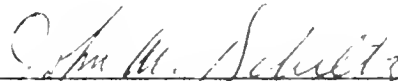
SUBJECT: REVENUE AND FINANCE


Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,


John M. Schiltz, Chairman of the
Committee on Style, Drafting,
Transition and Submission


William A. Burkhardt, Vice Chairman
of the Committee on Style, Drafting,
Transition and Submission



1 BE IT PROPOSED BY THE REVENUE AND FINANCE COMMITTEE:

2 That there be a new Article on Revenue and Finance to
3 read as follows:

4

5

ARTICLE _____

6

REVENUE AND FINANCE

7

Section 1. TAX PURPOSES. Taxes shall be levied by
8 general laws for public purposes.

9

Section 2. TAX POWER INALIENABLE. The power to tax
10 shall never be surrendered, suspended, or contracted away.

11

Section 3. PROPERTY TAX ADMINISTRATION. The state
12 shall appraise, assess, and equalize the valuation of all
13 property which is to be taxed in the manner provided by law.

14

Section 4. EQUAL VALUATION. All taxing jurisdictions
15 shall use the assessed valuation of property established
16 by the state.

17

Section 5. PROPERTY TAX EXEMPTIONS. (1) The legis-
18 lature may exempt from taxation:

19

(a) Property of the United States, the state, counties,
20 cities, towns, school districts, municipal corporations, and
21 public libraries, but any private interest in such property
22 may be taxed separately.

23

(b) Institutions of purely public charity, hospitals
24 and places of burial not used or held for private or corporate
25 profit, places for actual religious worship, and property
26 used exclusively for educational purposes.

27

(c) Any other classes of property.

28

(2) The legislature may authorize creation of special
29 improvement districts for capital improvements and the main-
30 tenance thereof. It may authorize the assessment of charges

1 for such improvements and maintenance against tax exempt pro-
2 perty directly benefited thereby.

3 Section 6. HIGHWAY REVENUE NON-DIVERSION. (1) Revenue
4 from gross vehicle weight fees and excise and license taxes
5 (except general sales and use taxes) on gasoline, fuel, and
6 other energy sources used to propel vehicles on public high-
7 ways shall be used, after deduction of statutory refunds and
8 adjustments, solely for:

9 (a) Payment of obligations incurred for construction,
10 reconstruction, repair, operation, and maintenance of public
11 highways, streets, roads, and bridges.

12 (b) Payment of county, city, and town obligations on
13 streets, roads, and bridges.

14 (c) Enforcement of highway safety, driver education,
15 tourist promotion, and administrative collection costs
16 authorized by the legislature.

17 (2) Such revenue may be appropriated for other purposes
18 by a three-fifths vote of the members of each house of the
19 legislature or by initiated measure approved by a majority of
20 the qualified electors.

21 Section 7. TAX APPEALS. The legislature shall provide
22 independent appeal procedures for taxpayer grievances about
23 appraisals, assessments, equalization, and taxes. The legis-
24 lature shall include a review procedure at the local government
25 unit level.

26 Section 8. STATE DEBT. No state debt shall be created
27 unless authorized by a two-thirds vote of the members of each
28 house of the legislature or a majority of the electors voting
29 thereon. No state debt shall be created to cover deficits
30 incurred because appropriations exceeded anticipated revenue.

1 Section 9. BALANCED BUDGET. Appropriations by the
2 legislature shall not exceed anticipated revenue.

3 Section 10. LOCAL GOVERNMENT DEBT. The legislature
4 shall by law limit debts of counties, cities, towns, and all
5 other local governmental entities.

6 Section 11. USE OF LOAN PROCEEDS. All money borrowed
7 by or on behalf of the state or any county, city, town, or
8 other local governmental entity shall be used only for pur-
9 poses specified in the authorizing law.

10 Section 12. STRICT ACCOUNTABILITY. The legislature
11 shall by law insure strict accountability of all revenue
12 received and money spent by the state and counties, cities,
13 towns, and all other local governmental entities.

14 Section 13. INVESTMENT OF PUBLIC FUNDS. The legislature
15 shall provide for a unified investment program for public
16 funds and provide rules therefor, including supervision of
17 investment of surplus funds of all counties, cities, towns,
18 and other local governmental entities. Each fund forming a
19 part of the unified investment program shall be separately
20 identified. Except for monies contributed to retirement
21 funds, no public funds shall be invested in private cor-
22 porate capital stock. The investment program shall be
23 audited at least annually and a report thereof submitted
24 to the governor and legislature.

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1 BE IT PROPOSED BY THE REVENUE AND FINANCE COMMITTEE:

2 That there be a new Article on Revenue and Finance to
3 read as follows:

4
5 ARTICLE _____

6 REVENUE AND FINANCE

7 Section 1. ~~PUBLIC~~ TAX PURPOSES. Taxes shall be levied by
8 general laws for public purposes.

9 Section 2. ~~SURRENDER-CLAUSE~~ TAX POWER INALIENABLE. The
10 power ~~of taxation~~ to tax shall never be surrendered, suspended,
11 or contracted away.

12 Section 3. PROPERTY TAX ADMINISTRATION. The state shall
13 appraise, assess, and equalize the valuation of all ~~P~~property
14 ~~which is to be taxed shall-be-appraised, assessed-and-equalized~~
15 ~~by-the-state~~ in the manner ~~prescribed~~ provided by law.

16 Section 4. EQUAL VALUATION. All taxing jurisdictions shall
17 use ~~The~~ assessed valuation of property ~~to-be-taxed-in-any-taxing~~
18 ~~jurisdiction-shall-be-the-same-valuation-as-the-valuation~~ established
19 by the ~~for~~ state and-county-purposes.

20 Section 5. PROPERTY TAX EXEMPTIONS. (1) The legislature
21 may exempt from taxation:

22 (a) ~~p~~Property of the United States, the state, counties,
23 cities, towns, school districts, municipal corporations, and
24 public libraries ~~may-be-exempt-from-taxation~~, but any private
25 interest in such property may be taxed separately.

26 (b) ~~Property-used-exclusively-for-educational-purposes, places~~
27 ~~for-actual-religious-worship, hospitals-and-places-of-burial-not~~
28 ~~used-or-held-for-private-or-corporate-profit, institutions-of~~
29 ~~purely-public-charity, may-be-exempt-from-taxation.~~ Institutions
30 of purely public charity, hospitals and places of burial not used

1 or held for private or corporate profit, places for actual
2 religious worship, and property used exclusively for educational
3 purposes.

4 (c) Any other certain classes of property may be exempt from
5 taxation.

6 (2) The legislative assembly legislature may authorize
7 creation of special improvement districts for capital improvements
8 and the maintenance thereof. of capital improvements and It may
9 authorize the assessment of charges therefor for such improvements
10 and maintenance against tax exempt property directly benefited
11 thereby.

12 Section 6. HIGHWAY- earmark HIGHWAY REVENUE NON-DIVERSION.
13 Revenue, except from general sales and use taxes, from excise and
14 license taxation on gasoline, fuel and other energy sources
15 derived as a result of the propulsion of vehicles on public high-
16 ways, and gross vehicle weight fees, shall be used solely for the
17 payment of obligations incurred for construction, reconstruction,
18 repair, operation, and maintenance of public highways, streets,
19 roads and bridges and for county, city and town obligations on
20 streets, roads and bridges, after the deduction of funds for for
21 statutory refunds and adjustments, enforcement of highway
22 safety, driver education, tourist promotion and for administrative
23 and collection costs as authorized by the legislative assembly.
24 By a three-fifths vote of the members of each house of the legis-
25 lative assembly or by initiated measure approved by a majority
26 of the electorate, such dedicated funds may be appropriated
27 for other purposes: (1) Revenue from gross vehicle weight
28 fees and excise and license taxes (except general sales and use
29 taxes) on gasoline, fuel, and other energy sources used to propel
30 vehicles on public highways shall be used, after deduction of

1 statutory refunds and adjustments, solely for:

2 (a) Payment of obligations incurred for construction,
3 reconstruction, repair, operation, and maintenance of public
4 highways, streets, roads, and bridges.

5 (b) Payment of county, city, and town obligations on
6 streets, roads, and bridges.

7 (c) Enforcement of highway safety, driver education,
8 tourist promotion, and administrative collection costs
9 authorized by the legislature.

10 (2) Such revenue may be appropriated for other purposes
11 by a three-fifths vote of the members of each house of the
12 legislature or by initiated measure approved by a majority of
13 the qualified electors.

14 Section 7. TAX APPEALS. The legislature shall provide
15 ~~taxpayer~~ independent appeal procedures for taxpayer grievances
16 about appraisals, assessments, and equalization, grievances
17 and taxes grievances. The legislature shall include ~~therein~~
18 a review procedure at the ~~county-or~~ local governmental unit
19 level.

20 Section 8. STATE ~~INDEBTEDNESS~~ DEBT. No state debt shall
21 be created unless authorized by a two-thirds vote of the
22 members of each house of the ~~Legislative-Assembly,~~ legislature
23 or unless-authorized-by a majority of the electors voting
24 thereon. No ~~State~~ debt ~~cannot~~ shall be created to cover
25 deficits incurred when because appropriations ~~exceed~~ exceeded
26 anticipated revenue during-any-budget-period.

27 Section 9. BALANCED BUDGET. Appropriations by the
28 ~~Legislative-Assembly~~ legislature shall not exceed anticipated
29 revenues during-any-budget-period.

30 Section 10. LOCAL GOVERNMENT ~~INDEBTEDNESS~~ DEBT. The

1 ~~Legislative-Assembly~~ legislature shall enact by law limits
2 of ~~indebtedness debts for subdivisions and districts of the~~
3 ~~state:~~ counties, cities, towns, and all other local govern-
4 mental entities.

5 Section 11. USE OF LOAN PROCEEDS. All money borrowed
6 by or on behalf of the state, or any ~~subdivision or district~~
7 ~~of the state,~~ county, city, town, or other local governmental
8 entity shall be used only for ~~the purpose or~~ purposes speci-
9 fied in the law authorizing law the loan.

10 Section 12. STRICT ACCOUNTABILITY. The ~~legislative~~
11 ~~Assembly~~ legislature shall enact ~~the necessary~~ by laws to
12 insure strict accountability of all revenues received and
13 money spent by the state, ~~subdivisions and districts there-~~
14 ~~of:~~ counties, cities, towns, and all other local govern-
15 mental entities.

16 Section 13. INVESTMENT OF PUBLIC FUNDS. The ~~legisla-~~
17 ~~tive-Assembly~~ legislature shall provide for a unified in-
18 vestment program for public funds and ~~prescribe~~ provide the
19 ~~rules and regulations~~ therefor, including the supervision
20 of investment of surplus funds of all ~~subdivisions and dis-~~
21 ~~tricts of the state:~~ counties, cities, towns, and other local
22 governmental entities. ~~The separate existence and identity~~
23 ~~of Each and every fund involved as forming~~ a part of the
24 unified investment program shall be ~~strictly maintained,~~
25 separately identified. ~~With the exception of~~ Except for
26 monies contributed to retirement funds, no public funds shall
27 be invested in private corporate capital stock. ~~An audit of~~
28 The investment program shall be ~~conducted~~ audited at least
29 annually and a report thereof submitted to the ~~G~~governor and
30 ~~legislative-Assembly:~~ legislature.

1 REPORT NO. VII - REVENUE AND FINANCE
2 COMMENTS ON STYLE, FORM, AND GRAMMAR
3

4 Section 2. A much more descriptive title was substituted
5 for one which was misleading.

6 Section 3. Rewriting the sentence avoids the error of
7 asserting that "property...shall be...equalized."

8 Section 4. Rewriting serves brevity and clarity and creates
9 consistency with the principle of state assessment established in
10 Section 3.

11 Section 5. Reorganization achieves clarity without changing
12 substance. (As a matter of substance, it should be noted that
13 the state has no power to tax property of the United States, absent
14 its permission.)

15 Section 6. A new title was substituted for one which
16 suffered the twin deficiencies of smacking of the vernacular and
17 misleading. Reorganization achieves clarity without changing
18 substance.

19 Section 7. Rewriting makes plain that people -- not
20 things -- have grievances.

21 Sections 8 and 9. Changes serve brevity and clarity without
22 altering substance.

23 Sections 10, 11, 12, 13. Consultation with the substantive
24 committee revealed that the phrase "subdivisions and districts
25 of the state" did not express that committee's intention. The
26 definition of "local government units" proposed in section 1
27 of report No. XI from the LOCAL GOVERNMENT COMMITTEE is not
28 adequate. Research showed that the words "local", "governmental",
29 and "entity" have been legally applied and construed. Accordingly,
30 the Committee on Style adopted, as expressive of the intention of

1 the substantive committee, the phrase "counties, cities, towns,
2 and all other local governmental entities." That phrase
3 (modified to suit the context) is substituted in each of these
4 sections for the phrase "subdivisions and distri of the
5 state."

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